

## **BZA - Minutes –November 24, 2009)**

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The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Mary Jane Baker, Chairman, presiding.

Members Present: Mary Jane Baker, Bill Maxwell, Albert Stewart and Bill Hobbs.

Members Absent: Rick Durham.

Also Present: Cory Wilson, Executive Director, Judy King, Plan Reviewer, and Gerald Shine, Jr., Attorney.

### **CURRENT BUSINESS**

1. Roll call was taken with one member, Rick Durham being absent.
2. The minutes of the preceding meetings were distributed to each member prior to the meeting. Member Maxwell made a motion to approve the minutes with the correction as stated. Member Stewart seconded the motion. The vote was unanimous in favor of the motion.

### **New Business**

#### **Continued Petitions**

Tabled at the October 27th Meeting

1. **Petition:**                    **2009-V-011**                    **Variance**                    Zoning: AG  
Address:                    3785 East Gemini Drive, Alexandria  
Location:                    CR 600 N to CR 350 East, North to East Gemini Drive  
Petitioner:                    Richard Sigler, Jr.  
Request:                    Variance of the Development Standard to provide for a 7' 2" privacy fence located in the front yard. This parcel is a corner lot; therefore, it has 2 front and 2 side setbacks (Section 6.25, FW-03 of the Ordinance states in an AG zoned district a fence is prohibited in the front yard).

Richard Sigler, Jr., 3785 Gemini Drive was present.

Director Wilson informed the Board at last month's meeting this was tabled as the Board had requested additional information regarding the width of the right-of-way of Gemini Drive as well as the distance between the fence and the right of way.

Staff has determined the platted right-of-way is 50 feet for Gemini Drive and the fence is 21.2 feet from the center line of Gemini Drive. Therefore, the fence is located inside the right of way of Gemini Drive and would require a variance from the Board as all fencing is required to be located three feet outside of the right of way.

After some discussion by the Board, concern was expressed about the right-of-way and the fencing being too close. Also, there were concerns with the fence being too high

preventing law enforcement from being able to see over the fence.

Director Wilson told the Board that no action could be taken today because notification for the fence being in the right-of-way would need to be sent. Also, County Highway needs to give the Board some kind of recommendation as to how they feel about the fence being in the right of way along Gemini Drive. Therefore, this petition be continued with new notice..

Mr. Sigler stated this is the second time this has been before this Board. When the existing fence was there no one had complained but now that the fence is a complete privacy fence there have complaints. There are people in the county whose fences are not in as good of shape as this one. Some are falling apart and are taller than the three-and-half-foot regulation.

Mr. Sigler was informed it is the home owner's responsibility to know where the right of way is located before building any structure.

No remonstrators were present.

Member Maxwell made a motion to continue Petition #2009-V-011 until the next meeting with the stipulation a letter from the Highway Department be submitted as to what their feelings are about the fence being in the right of way and also a letter from the Sheriff's Department as to whether the fence would create a security problem.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-V-011 has been tabled until the December meeting.**

### **New Business**

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|---------------------|---|-----------------|-------------------|
| <b>1. Petition:</b> | <b>2009-V-012</b>   | <b>Variance</b> | <b>Zoning: CR</b> |
| Address:            | 4011 West CR 200 South  |                 |                   |
| Location:           | South side of CR 200 South between CR 400 West and CR 500 West  |                 |                   |
| Petitioner:         | Dave Montgomery for Bethel United Methodist Church  |                 |                   |
| Request:            | A Variance of the Development Standards to provide for a new canopy located 46 feet from the west right of way of County Road 400 West (Layton Road) on the east side of the building. (A minimum setback of 100 feet is required for all collector roads). |                 |                   |

Brian Bays, Park Road, Anderson, IN., was present representing this petition.

Mr. Bays informed the Board he is a trustee for the church. At the October 2009 BZA meeting this Board granted approval of two variances for setbacks but at that time did not address the setback for the canopy as it had not been discovered and therefore not advertised.

James Roudebush who lives to the south of this property told the Board he was present because he had concerns with drainage and adding to the parking lot.

Patrick Manship, County Surveyor was present.

Mr. Manship told the Board there have been numerous revisions on the drainage plans which have been submitted to the Drainage Board. This should not be held up because of drainage problems because the Drainage Board is addressing those issues.

Mr. Shine told the Board this petition has been before the Drainage Board but as of yet have not obtained an approval. There are signification problems with drainage and the Drainage Board will determine if a retention pond is required.

There were no remonstrators present.

Member Maxwell made a motion to approve Petition #2009-V-012 for a setback relief of 54 feet as per staff report.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-V-012 was approved.**

## 2. Miscellaneous

Director Wilson presented the proposed calendar for 2010. The meeting for December is the 28th which is right after Christmas. A lot of people are usually gone at that time. If the Board would like that could be moved to the same date as the MCPC which is the second Tuesday of the month. Also, the November meeting, due to Thanksgiving, was moved to the 16<sup>th</sup>. But that could also be changed.

Member Hobbs made a motion that the December 2010 be moved to the 21<sup>st</sup> and the November stay the same as presented (November 16, 2010). The filing dates will be changed accordingly.

Member Stewart seconded the motion.

The vote was unanimous in favor of the motion.

Mr. Shine brought the Board up to date on the case concerning the landfill. A deposition was to be taken which has not happened and now the Attorney General has the case and that has been continued. However, there is still a hearing scheduled for December 8<sup>th</sup> for some motions on prejudgments from both sides.

Member Stewart made a motion, seconded by Member Hobbs to adjourn. The vote was unanimous in favor of the motion.

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Adjournment: 10:09:03 A.M.

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Mary Jane Baker, Chairman

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Beverly Guignet, Secretary